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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,883	06/15/2001	Thomas Leung	11229-6	7618
7590	04/01/2004		EXAMINER	
BERESKIN & PARR 40 KING ST WEST BOX 401 TORONTO, ON M5H 3Y2 CANADA			AMIRI, NAHID	
		ART UNIT	PAPER NUMBER	3635
		DATE MAILED: 04/01/2004		

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

<b>Application No.</b> 09/880,883 <b>Examiner</b> Nahid Amiri	<b>Applicant(s)</b>
	LEUNG, THOMAS
	Art Unit 3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 22 January 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 14-16, 19-21, 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) 14-16 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 19 and 27 is/are rejected.
- 7) Claim(s) 20, 21 and 28 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____
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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

**Claims 19, 27** stand rejected under 35 U.S.C. 102(b) as being anticipated by US patent No. 6,158,184 Timmerman, Sr. et al., as stated in previous office action.

### *Allowable Subject Matter*

Claims 28 and 20-21 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### *Response to Arguments*

Applicant's arguments filed January 02, 2004 have been fully considered but they are not persuasive.

In regard to applicant' argument the Timmerman '184 does not disclose the connector 6, 8 located adjacent to vertices of the inner members 323,366,364. Examiner as stated in previous office action the Timmerman '184 Fig. 7, clearly discloses the connectors 6 and 8 are definitely adjacent to vertices of the inner members since word adjacent means lying near, close to, next to.

Cited art used as the basis for rejection under 35 USC § 102 is only required to disclose the claimed limitations. Complexity of the cited art compared to the claimed invention is irrelevant. As discussed above, the Timmerman '184 discloses the claimed structural limitations, it is also inherently capable of performing the same functions as the claimed invention.

In regard to applicant's argument of examiner withdrawing the amended claims **14-16**. As stated in previous office action these claims by having the limitation of "**when more than four continuous diagonal members**", appears to drawn to different species which differ from elected specie FIG.11 with only four diagonal members.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (703) 305-4241 and Fax number is 703-872-9306. The examiner can normally be reached on Monday-Friday from 8:00-5:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Carl Friedman can be reached at (703) 308-0839.

na

March 25, 2004



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600